

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



HOWARD W. HOFFARTH,

Plaintiff,

v.

19-cv-1710 (JLS) (MJR)

SISTERS OF CHARITY HOSPITAL OF
BUFFALO, NEW YORK, SISTERS OF
CHARITY FOUNDATION, INC., THE
CITY OF BUFFALO, JOHN DOE NOS.
1-5, JANE DOE NOS. 1-4,

Defendants.

DECISION AND ORDER

As relevant here, Plaintiff Howard W. Hoffarth asserts against the City of Buffalo various constitutional claims pursuant to 42 U.S.C. § 1983 and a state-law claim for breach of a non-delegable duty. Dkt. 1. Hoffarth seeks damages related his time at Sisters of Charity Hospital between December 26 and December 30, 2016, during which he alleges physical abuse and confinement against his will. *See id.*

Defendant City of Buffalo moved to dismiss the claims against it under Federal Rule of Civil Procedure 12(b)(6). Dkt. 12. Hoffarth responded in opposition, and Defendant City of Buffalo replied. Dkts. 16, 18. This Court referred the case to United States Magistrate Judge Michael J. Roemer for all proceedings under 28 U.S.C. §§ 636(b)(1)(A) and (B). Dkt. 17. Judge Roemer held oral argument and, on July 20, 2020, issued a Report, Recommendation, and Order (“R&R”),

recommending that this Court grant Defendant City of Buffalo's motion to dismiss. Dkts. 20, 21. Neither party objected to the R&R, and the time to do so has expired. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

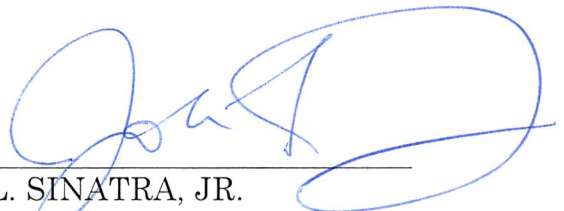
A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Though not required to do so, this Court reviewed the R&R and the complaint. Based on that review and absent any objections, the Court accepts and adopts Judge Roemer's recommendation to grant Defendant City of Buffalo's motion.

For the above reasons and those in the R&R, the Court GRANTS Defendant City of Buffalo's motion to dismiss (Dkt. 12) and DISMISSES all claims against it, with prejudice.¹ The Clerk of the Court shall terminate the City of Buffalo as a defendant.

SO ORDERED.

Dated: August 19, 2020
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE

¹ Defendants Sisters of Charity Hospital and Sisters of Charity Foundation answered the complaint. Dkt. 11. Defendants John Doe Nos. 1-5 "have yet to be identified, served or appear." Dkt. 21, at 11 n.3. Nor does it appear that Defendants Jane Doe Nos. 1-4 have been identified, served, or appeared. Therefore, Hoffarth's claims against those defendants remain pending at this time.